
IV. Regional Negotiations

One of the major achievements of the Clinton Administration has been the use of regional arrangements to further trade liberalization. Passage and implementation of the North American Free Trade Agreement (NAFTA), the launch of the Free Trade Area of the Americas (FTAA) and the negotiation of sectoral agreements in Asia Pacific Economic Cooperation forum (APEC), all have played a seminal role in trade policy.

In 1993, in recognition of the growing strength and dynamism of our trade and economic links with the Asia Pacific region, President Clinton convened the first APEC Leaders meeting in Seattle, Washington, giving U.S. trade and economic policy an Asian regional focus at the highest level for the first time. In succeeding years, the President's vision and leadership transformed APEC from a largely consultative body to one with an active trade vision – to achieve open and free trade and investment in the region in the first two decades of the 21st century.

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada and Mexico entered into force. As the world's largest and most comprehensive free trade area, it provides market opening and fair rules for trade and investment across North America. The negotiation and implementation of trilateral environment and labor agreements dramatically increased cooperative activities across North America and encouraged effective enforcement of environmental and labor laws.

Finally, in December of 1994, the 34 democratically elected leaders of the Western hemisphere agreed to create a comprehensive Free Trade Area of the Americas by 2005. It was recognized that the prosperity and competitiveness of the entire hemisphere would

be enhanced by the elimination of trade barriers and a single set of fair trade rules. In addition, economic cooperation supports other goals, such as democracy, the rule of law, anti-corruption, and social justice. With these objectives in mind, the Administration pursued a regional approach to the Western Hemisphere, with the FTAA as its center.

A. Free Trade Area of the Americas

Overview

At the first Summit of the Americas, held in Miami in December 1994, President Clinton and the 33 other democratically elected leaders of the hemisphere agreed to create the Free Trade Area of the Americas as a comprehensive free trade zone encompassing more than 800 million people in the Americas. They directed their Trade Ministers to conclude the negotiations of the FTAA no later than the year 2005. The Trade Ministers launched their work at the first FTAA Ministerial, hosted by the United States in Denver in June 1995. As we stand at the halfway point of the leaders' timetable, we are well on our way to making their vision a reality within the time frame that they established. Nine Negotiating Groups – covering market access; agriculture; services; intellectual property; government procurement; investment; subsidies, anti-dumping and countervailing duties; competition policy; and dispute settlement – are conducting negotiations in Miami.

An important characteristic of the FTAA has been the effort to build broad public understanding of and support for the FTAA by communicating openly with the public. For the first time in an international trade negotiation, a committee of all participating governments was established to

provide an effective means for civil society to contribute to the negotiating process. The first Report to the Ministers from the Government Committee on Civil Society summarizes the range of views submitted by organizations and individuals from throughout the hemisphere in response to a formal invitation for written comments. This Report is available on the official FTAA internet homepage (www.ftaa-alca.org).

In order to ensure that the FTAA negotiations take into account new technologies in international commerce, the Ministers also established the Joint Private-Public Sector Committee of Experts on Electronic Commerce. This Committee's Report to the Ministers also is available on the FTAA homepage. The Joint Committee will continue its work to expand the benefits and opportunities of the electronic marketplace in the Western Hemisphere and to provide guidance on how electronic commerce should be dealt with in the construction of the FTAA.

Finally, the FTAA countries are taking into account the differences in the levels of development and the sizes of the economies in the Americas, in order to create opportunities for the full participation by all countries.

Highlights of the achievements of this Administration since 1993 include:

- ▶ *Launch of Negotiations.* Following a period of preparatory work among the 34 countries after the Miami Summit of the Americas in 1994, the 34 leaders at the Santiago Summit of the Americas in 1998 initiated the negotiations. Since then the Negotiating Groups have developed annotated outlines of their respective chapters of the FTAA agreement. At the fifth FTAA Trade Ministerial meeting, held in Toronto in November 1999, the Ministers instructed the Negotiating Groups to develop draft texts of their chapters of the FTAA agreement by the time of the next Ministerial in April 2001.

- ▶ *Implementation of Business Facilitation Measures.* The FTAA countries developed and are implementing in 2000 a set of eight customs-related business facilitation measures to facilitate the conduct of trade in the hemisphere even before the negotiations are completed. Among the most significant measures are: procedures to expedite express shipments; simplified procedures for low-value shipment transactions and for goods related to business travel; and development of national codes of conduct for customs officials.

1999 Activities

The decision to pursue negotiations for the Free Trade Area of the Americas was one of the most important initiatives to emerge from the first Summit of the Americas meeting, held in Miami in December 1994. At the Miami meeting, hemispheric leaders formulated the concept of a free trade area encompassing nearly 800 million people throughout North America, Latin America, and the Caribbean, and agreed to conclude negotiations creating the FTAA by 2005. President Clinton and the 33 other democratically-elected leaders in the Western Hemisphere formally launched the FTAA negotiations at the Santiago Summit of the Americas meeting in April 1998.

The negotiations are being guided by general principles and objectives approved by the leaders. Among the most important principles are that the FTAA should improve upon WTO rules and disciplines wherever possible and appropriate, and the outcome of the negotiations will be a "single undertaking," in the sense that signatories to the final FTAA agreement will have to accept all parts of it – they cannot pick and choose among the obligations. Among the most important objectives are progressively to eliminate tariffs and nontariff barriers, as well as other measures with equivalent effects, which restrict trade; to

bring under greater discipline trade-distorting practices for agricultural products, including those that have effects equivalent to agricultural export subsidies; to promote customs mechanisms and measures that ensure operations are conducted with transparency, efficiency, integrity, and accountability; to liberalize trade in services to achieve hemispheric free trade under conditions of certainty and transparency; to ensure adequate and effective protection of intellectual property rights, taking into account changes in technology; to establish a fair and transparent legal framework for investment and related capital flows; to make our trade liberalization and environmental policies mutually supportive; and to further secure the observance and promotion of worker rights, in particular the observance of internationally recognized core labor standards.

In 1999, the United States and the 33 other FTAA countries made substantial progress in negotiations toward creation of the Free Trade Area of the Americas. Each of the nine FTAA negotiating groups prepared an annotated outline of issues to be considered in developing provisions that will comprise the FTAA agreement. As a result of this progress, FTAA ministers at the Fifth Ministerial Meeting, held in Toronto in November 1999, instructed the negotiating groups to begin preparation of draft texts of the chapters that will constitute the agreement. The draft texts will be submitted to ministers by their next meeting in April 2001.

The United States participated actively in the nine negotiating groups established following the Santiago Summit. Each of the negotiating groups – covering market access, agriculture, services, intellectual property, investment, competition policy, government procurement, subsidies/antidumping/countervailing duties, and dispute settlement – met several times over the course of the year in Miami, which is hosting the negotiations and the Administrative Secretariat for the first three years of the negotiations. In addition, the United States chaired the Negotiating Group on Government Procurement during the

1998-1999 period, and will chair the Negotiating Group on Services in the 2000-2001 period.

Other governments throughout the hemisphere have joined in sharing the responsibility of leading the negotiations: Chile (Market Access), Brazil (Agriculture), Mexico (Intellectual Property), Trinidad and Tobago (Investment), Canada (Government Procurement), Colombia (Competition Policy), Venezuela (Subsidies/Antidumping/Countervailing duties), and Costa Rica (Dispute Settlement).

As a result of U.S. efforts, the FTAA countries also agreed to implement eight specific customs-related and ten transparency-related measures which will help reduce obstacles to doing business in the hemisphere while the FTAA negotiations continue. These measures are to be implemented during the year 2000. The 34 countries will implement these measures based on a common set of elements that specify what steps each country will undertake. This underlines the fact that the FTAA is creating a unified, cohesive market with a single set of rules. Among the most significant measures to be implemented are: procedures to expedite express shipments, including by releasing shipments by customs authorities within six hours of submission of necessary customs documentation; simplified procedures for low-value shipment transactions and for goods related to business travel; development of national codes of conduct for customs officials; and application of the 1996 Harmonized Commodity Description and Coding System at the six-digit level.

In order to improve transparency and facilitate business in the hemisphere, the participating governments also agreed to continue to make public commercially useful information by posting on the official FTAA Internet homepage (www.ftaa-alca.org) detailed information on each country's trade regime. The business facilitation measures were developed as a result of extensive consultation with the private sector, including identification of customs efficiency as a priority area. The FTAA countries view business

facilitation as an ongoing initiative and accordingly will be identifying a second round of business facilitation measures in 2000.

As agreed at the 1998 San Jose trade ministerial meeting, Canada passed on its chairmanship of both the Ministerial and the vice ministerial (Trade Negotiations Committee) meetings for the period 2000-2001 to Argentina, who will be followed by Ecuador (2001-2002). The FTAA negotiations culminate in the last two years (2002-2004) with the co-chairmanship of Brazil and the United States, the two largest economies in the hemisphere. The Trade Negotiations Committee (TNC) focused in its first period on both guiding the negotiations and developing recommendations on business facilitation. The TNC will continue both these aspects of its work in the next period and also will begin to examine ways in which to treat the differences in the levels of development and size of economies in the hemisphere to ensure the full participation of all countries in the construction and benefits of the FTAA.

In keeping with the leaders' mandate to conduct the FTAA negotiations in a manner that will build broad public understanding of and support for the FTAA and recognizing the need for open communication with the public throughout the hemisphere, the trade ministers established a Committee of Government Representatives on the Participation of Civil Society. The committee was created to provide an effective means for civil society (i.e., all segments of the public, including individuals and organizations representing interests such as business, labor, consumers, academics, and the environment) to contribute to the negotiating process. As a first step, the Civil Society Committee invited the public throughout the hemisphere to provide its views on the FTAA negotiations in order for the Committee to present the full range of views to Ministers before the November 1999 Trade Ministerial. In addition to placing this invitation on the official FTAA website (www.ftaa-alca.org), countries agreed to use national mechanisms to disseminate the invitation further. In the United States, the

invitation was disseminated through a variety of means, including press releases, letters and public meetings. In order to further enhance transparency of the negotiations, the U.S. Government also held open briefings and issued several Federal Register notices soliciting public comment on various aspects of the FTAA negotiations.

The ministers made a major advance in opening the negotiations to civil society by reaching agreement on and publicizing through the official FTAA Internet homepage (www.ftaa-alca.org) a Committee Report outlining the views which had been received from civil society in the hemisphere during the course of the first year of the negotiations. Ministers directed the Committee, which currently is chaired by Bolivia, to obtain ongoing input from civil society and to provide another report, outlining the full range of views received, at the next ministerial meeting in April 2001 for their consideration. In addition, on November 3, twenty-two FTAA ministers and vice ministers participated in the first America's Civil Society Forum in Toronto, which included participants from throughout the hemisphere representing a broad range of interests such as labor, environment, gender equality and social justice.

The United States also was instrumental in achieving a joint commitment with the other FTAA governments to eliminate export subsidies on agricultural products in the WTO, demonstrating that the FTAA and WTO negotiations are mutually supportive.

In recognition that the FTAA negotiations must take into account new technologies in international commerce, the ministers established the Joint Private-Public Sector Committee of Experts on Electronic Commerce. The Joint Committee submitted at the Toronto Ministerial meeting its Report to Ministers, which the Ministers made publically available by posting it on the official FTAA Internet homepage (www.ftaa-alca.org) and agreed to circulate it to

relevant authorities within their respective governments. The Report highlighted that electronic commerce can help FTAA countries expand their trade, increase their global competitiveness and hasten their integration into a unified, regional market. The dividends are expected to benefit particularly the smaller companies and smaller economies in the hemisphere which traditionally have been hampered by limited information, high market entry costs, and distance from major markets. The Joint Committee concluded that electronic commerce “can make an important contribution to future sustainable economic growth in the Western Hemisphere.” The Joint Committee will continue its work aimed at expanding the benefits and opportunities of the electronic marketplace in the Western Hemisphere and providing guidance on how electronic commerce should be dealt with in the construction of the FTAA. The Committee currently is chaired by Uruguay.

As noted in the Santiago Summit Declaration, the participants in the FTAA are to “take into account the differences in the levels of development and size of the economies in the Americas, in order to create opportunities for the full participation by all countries.” In order to ensure the full participation of smaller economies in the FTAA negotiations, the FTAA ministers established the Consultative Group on Smaller Economies. The Consultative Group, which currently is chaired by Guatemala and in which all 34 FTAA countries participate, will keep under review the concerns and interests of the smaller economies and bring to the attention of the Trade Negotiations Committee its recommendations to address such issues.

The FTAA will result in greater market access for U.S. exports. U.S. goods exports to Latin America (excluding Mexico) have been in surplus since 1992 before falling into deficit in 1999 as a result of the recessionary economic conditions through much of Latin America. Since 1992, U.S. goods exports have increased 56.8 percent. Jobs supported by goods exports to Latin America

(excluding Mexico) increased from an estimated 460,000 in 1992 to more than 660,000 in 1998 (data available).

B. North American Free Trade Agreement

Overview

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada and Mexico entered into force. The NAFTA is the largest and most comprehensive free trade agreement in the world. It also includes the most significant labor and environmental cooperation agreements that the United States has negotiated as part of a trade agreement. The NAFTA has dramatically improved our trade and economic relations with our neighbors. Trade among the three countries has expanded enormously, thus helping to fuel our unprecedented economic expansion and promoting our global economic leadership. In addition, we are engaged in a singularly intensive trade, labor and environmental cooperation program. The net result of these efforts is more economic opportunity and growth, greater fairness in our trade relations, and a coordinated effort to better protect worker rights and the environment in North America.

We intend to build on the remarkable record to date that has seen Mexico become our second largest single-country trading partner and our fastest growing major export market over the last five years, despite the worst economic setback in Mexico in 60 years in 1994-95. The magnitude of our trade relations in North America is impressive: U.S. two-way trade with Canada and Mexico exceeds U.S. trade with the EU and Japan combined.

The Administration’s ongoing bilateral and trilateral efforts in North America are designed to foster further progress. More than 25 different NAFTA Committees, Working Groups and their

subsidiary bodies complement our active bilateral agendas with Canada and Mexico. Overall direction to NAFTA implementation is provided by the annual NAFTA Commission, which will be hosted this year by the United States.

Highlights of the achievements of this Administration since 1993 include:

- ▶ *Creating the world's largest and most comprehensive free trade area with the United States, Canada and Mexico.* The Administration completed negotiation of, and secured Congressional approval for, the NAFTA - an accord unprecedented in its comprehensiveness which provides market opening and fair rules for trade and investment across North America. Trade expansion in the region has boomed, up more than 85 percent between the three countries, with U.S. exports of goods to Mexico rising to more than double what they were in 1993 (prior to NAFTA) and continuing to expand faster than any other major market. In addition, trade with our largest trading partner, Canada, has also jumped dramatically, with U.S. exports of goods up nearly 66 percent since 1993 and also continuing to grow.
- ▶ *Creating an unprecedented joint environmental and labor work program with Canada and Mexico - the most comprehensive effort of this type the United States has underway with any countries in the world.* In concluding the NAFTA package, the Administration successfully negotiated and implemented trilateral environmental and labor agreements designed to both dramatically increase cooperative activities across North America in these areas and encourage the effective enforcement of environmental and labor laws. The net result has been tangible progress in a number of areas, and the prospect of much

more progress in the months and years ahead.

1999 Activities

The North American Free Trade Agreement, which built on the U.S.-Canada Free Trade Agreement of 1989, is the most comprehensive and largest regional free trade agreement in the world, with nearly 400 million people producing more than \$10 trillion worth of goods and services. Since the Agreement's entry into force on January 1, 1994, the Administration has worked to ensure that its market opening objectives are met, thus eliminating barriers to U.S. exports. Cooperative agreements on labor and the environment also are part of the NAFTA. (Bilateral issues are discussed in the separate sections on Canada and Mexico).

Upon the Agreement's entry into force, half of all U.S. exports to Mexico became eligible for duty-free treatment. This benefitted many sectors in which the United States is most competitive, such as semiconductors, computers, machine tools, aerospace equipment, and medical devices. Remaining tariffs will be eliminated on a ten or fifteen-year staging schedule.

January 1, 2000, marked the seventh consecutive year of reciprocal tariff reductions. The estimated average Mexican trade-weighted tariff on U.S. products has fallen from 10.0 percent to 1.27 percent, while the average U.S. tariff on Mexican products has fallen from 4.0 percent to 0.35 percent. Thus, U.S. firms have obtained more than an eight percentage point margin of preference compared to non-NAFTA competitors, while Mexican firms have obtained roughly a three percentage point margin of preference in the United States. Nearly all goods traded between Canada and the United States now enter each country free of any tariff.

Trade among the three NAFTA Parties has soared during the first six years of the Agreement, and continues to set new records. U.S. goods exports

to our NAFTA partners rose more than 75 percent, to \$253 billion. U.S. merchandise exports to Canada, our largest trading partner, climbed nearly 66 percent since the NAFTA entered into force. Despite the setback in export growth to Mexico in 1994-95 due to the peso crisis and economic downturn, U.S. merchandise exports to Mexico have more than doubled from pre-NAFTA levels (growing from \$41.6 billion in 1993 to \$87 billion in 1999). As a result, Mexico became our second largest single-country trading partner in 1999. Exports to our two North American trading partners, combined, account for approximately 36 percent of our global exports. Jobs supported by goods exports to NAFTA countries increased from an estimated 2.0 million in 1993 to an estimated 2.6 million in 1998 (lastest data available) or 32.5 percent.

Elements of NAFTA

1. Tariffs

Following procedures set out in the NAFTA, the United States, Canada and Mexico began a third NAFTA tariff acceleration exercise in 1999. In the second round of tariff acceleration, which was completed in 1998, the early elimination of tariffs on a variety of products affected nearly \$1 billion in trilateral trade. The trilateral agreements to eliminate tariffs demonstrated the broad support for increased trade among the NAFTA countries. The items identified for accelerated tariff elimination were selected based on requests by consumers, producers and traders who are eager to take advantage of the benefits of free trade throughout North America. Under the last agreement, the United States and Mexico eliminated tariffs on an equivalent set of products, while Mexico and Canada eliminated tariffs between their two countries on a parallel package of goods. As a result of the tariff acceleration, hundreds of items now enter each country free of tariff barriers, including chemicals, pharmaceuticals, fabrics, yarns, bedding, hats, stainless steel products, locomotive parts, watches, and toys. The NAFTA countries will

continue to consider additional tariff acceleration requests, based on expedited procedures agreed upon in 1999.

2. Removing Nontariff Barriers

The NAFTA went beyond tariffs and quotas by reducing or eliminating numerous nontariff barriers, such as import licensing and performance requirements. These were more prevalent in Mexico than in Canada. For example, pursuant to the Agreement, Mexico eliminated rules that had forced U.S. manufacturing investors in Mexico to export their output (usually to the United States) rather than sell it in the Mexican market in order to qualify for significant tax benefits. Requirements that U.S. companies produce in Mexico in order to sell there are being phased out. These barriers had been especially hard on small U.S. businesses, which are often ill-equipped to wrestle with complex procedures and unable to invest in overseas manufacturing facilities.

3. Government Procurement

The NAFTA defines broad categories of government procurement contracts on which firms from the three Parties can bid, including many services, such as construction services. The Agreement provides for transparent tendering and bid protest procedures, establishes a bid challenge mechanism, and prohibits offsets, without restricting U.S. small and minority business programs. There is an effort underway in the NAFTA trilateral Working Group on Government Procurement to build upon the existing progress.

4. Intellectual Property Rights

The NAFTA contains specific obligations requiring high levels of protection for owners of patents, copyrights, trademarks, trade secrets, and integrated circuit designs. Such protection will increase trade while decreasing losses from piracy and counterfeiting. Products that benefit from the NAFTA's IPR chapter are, for example, computer software, motion pictures, audio recordings,

pharmaceuticals, agricultural chemicals, and computer chips. In response to U.S. industry concerns, the United States is pursuing strengthened IPR enforcement jointly with Mexico. (See bilateral section on Mexico in Chapter V for more details.)

5. Investment

The NAFTA provides comprehensive disciplines to ensure that foreign investors are provided the same treatment as domestic investors. The NAFTA includes disciplines on performance requirements which prohibit most requirements for local content, for the transfer of technology to competitors, and for exclusive suppliers of a particular product to a specific region or market.

The NAFTA Investment and Services Working Group (ISWG) maintains an active agenda. The Group continues to review the implementation of commitments related to investment and cross-border trade in services (NAFTA Annex I). In addition, the Group monitored the progress of various professions in their efforts to reach mutual recognition agreements for licensing and certification and discussed the status of implementation of the agreement on mutual recognition of engineers. The Group also discussed issues related to investor-state provisions of the NAFTA and continued its discussion of interpretation of certain provisions of Chapters Eleven and Twelve.

6. Rules of Origin

The NAFTA raised the North American content requirement for duty-free treatment of automobiles from 50 percent (as provided in the CFTA) to 62.5 percent, and introduced mechanisms to improve accountability. The NAFTA also contains special rules of origin for high technology products, textiles, and apparel.

The NAFTA Rules of Origin Working Group in 1999 finalized a package of technical rectifications comprising complete replacements

for Annex 401 (product-specific rules of origin) and Annex 403.1 (tariff provisions for tracing purposes). Implementation of the package is expected in 2000. The Working Group also discussed ways to simplify the rules of origin and agreed to develop a work plan to develop an appropriate methodology for such simplification, as well as to address automotive tracing requirements.

7. Agriculture

The NAFTA mandates the eventual elimination of all nontariff barriers to agricultural trade between the United States and Mexico. All quantitative restrictions on agricultural trade between the United States and Mexico were eliminated upon the NAFTA's entry into force. For import-sensitive industries, long transition periods for the elimination of over-quota tariffs and special safeguards allow for an orderly adjustment to barrier-free trade with Mexico. All agricultural provisions will be implemented by the year 2008.

Under the provisions of the CFTA, which was incorporated into the NAFTA, all tariffs affecting agricultural trade between the United States and Canada were removed on January 1, 1998. The only special exceptions are for U.S. imports of dairy products, sugar, certain sugar containing products, peanut butter, and Canadian imports of dairy products, poultry, eggs and margarine, which are covered by tariff-rate quotas.

The NAFTA Committees and Working Groups which oversee the implementation of the NAFTA's agricultural provisions include the Committee on Agricultural Trade, the Working Group on Grade and Quality Standards in Agriculture, the Working Group on Agricultural Subsidies, and the Advisory Committee on Private Commercial Disputes Regarding Agricultural Goods. In 1999, these groups addressed issues such as tariff rate quotas, export subsidies and domestic support programs. The NAFTA parties established a Working Group on Tariff Rate Quota Administration, and sponsored technical

assistance to Mexico on inspection and quality certification systems for certain products in the Working Group on Agricultural Grading and Marketing Standards. The Working Group on Agricultural Subsidies held a seminar on NAFTA agricultural-food policy and sponsored research on the use of export subsidies by non-NAFTA countries. The Advisory Committee on Private Commercial Disputes Regarding Agricultural Goods helped to establish an interim Board of Directors as part of its effort to support an industry-led Tri-National Private Commercial Dispute Resolution Corporation.

8. Food Safety

The NAFTA recognizes the right of its members to impose measures necessary to protect food safety and animal and plant health. However, the NAFTA requires that each country adhere to guidelines to assure that such measures are fair and equitable, and not merely a way to protect domestic industries from foreign competition. Rules must be based on scientific principles and risk assessments, which must correspond to and must be applied only to the extent necessary to provide a country's chosen level of protection.

The NAFTA created a trilateral Committee on Sanitary and Phytosanitary Measures for resolution of issues surrounding food safety and animal and plant health. The Committee has considered a range of bilateral issues, facilitating trade in a number of agricultural goods, and is helping to implement President Clinton's food safety initiative, which was first announced in 1997.

9. Safeguards

The NAFTA provides methods for protecting American industries and workers from injury – or the threat of injury – from surges in imports through two safeguard provisions. A bilateral safeguard permits a temporary “snap-back” to applied MFN tariff rates, and a global safeguard maintains our right to impose measures on Canada

and Mexico as part of a multilateral action when imports from either country seriously injure U.S. firms.

10. Services

The NAFTA strengthens rules and broadens coverage to all service providers, except those that are specifically excluded. The Agreement opens new market opportunities for U.S. service companies by allowing them to provide services directly from the United States on a non-discriminatory basis. It encourages elimination of citizenship requirements for licensing and certification of professionals.

In financial services, the NAFTA provides for significant, phased openings of the Mexican banking and insurance markets, as well as for party-to-party and investor-to-party dispute settlement mechanisms. The NAFTA Financial Services Committee has finalized rosters for financial services panelists for disputes under Chapter Fourteen, established “inquiry points” for each Party pursuant to the requirement of NAFTA Article 1411(6), agreed to update, on an annual basis, federal reservations set out in the Annex VII Schedules, consulted on Mexico's aggregate limit on limited scope financial institutions, and reviewed market access issues arising from NAFTA Article 1403(3) following the entry into force of the U.S. Interstate Banking and Branching Efficiency Act. In 1999, the Committee also held formal consultations to discuss the possibility of further liberalization of cross-border trade in financial services.

11. Standards

The NAFTA ensures that Canadian and Mexican product standards, regulations, and conformity assessment procedures do not discriminate against U.S. exports or create needless barriers to trade. The Agreement preserves our right to establish and enforce our own product standards and regulations, particularly those designed to promote safety and protect human, animal and

plant life, and health and the environment. In 1999, the trilateral NAFTA Committee on Standards-Related Measures met to discuss issues associated with implementation (e.g., the operation of central contact points for information), and to exchange information on standards-related developments in the respective countries and related international and regional fora.

The Telecommunications Standards Subcommittee (TSSC), made up of telecommunications trade and regulatory officials from the three NAFTA signatory countries, meets to discuss, monitor, and facilitate the implementation of the telecommunications-related provisions of the NAFTA. Work focuses on implementing the TSSC's multi-year work program on standards harmonization for wired and wireless equipment, and facilitating more streamlined testing and certification procedures within the NAFTA.

The NAFTA Land Transportation Standards Subcommittee (LTSS) continues its work on safety issues. In 1999, the LTSS agreed to develop a new side-by-side evaluation of motor carrier safety regulations, reviewed driver's hours of service regulations, developed an outline of each country's motor carrier safety requirements, including the information needed to assess a carrier's safety fitness, pursued regulatory compatibility on the basis of safety performance criteria for vehicle weights and dimensions, agreed to examine issues related to the compatibility of standards for motor coaches, concluded its work on traffic control devices, agreed to jointly publish the Emergency Response Guide for the Transport of Hazardous Materials and a North American Transport of Dangerous Goods Standard, and made progress on the development of rail tank car and cargo tank truck requirements.

The NAFTA Subcommittee on Labeling of Textile and Apparel Goods met in October 1999 to discuss the text of an agreement on

harmonizing care symbols for textile and apparel products.

12. Review of Dumping and Subsidy Determinations

Under NAFTA Chapter 19, the United States is not required to make any substantive change in its antidumping (AD) or countervailing duty (CVD) laws. The NAFTA did require Mexico to undertake far-reaching reforms to provide full due process guarantees and effective judicial review to U.S. exporters. NAFTA establishes a mechanism for independent binational panels to review final U.S., Canadian, and Mexican AD and CVD determinations when such a review is requested by a person entitled to judicial review under the domestic law of the importing country. This is essentially the same review system that the United States and Canada have applied under the CFTA. In the six years that the NAFTA has been in force, 53 Chapter 19 panels have completed their work or have cases pending.

13. Mechanisms to Implement the Agreement

The NAFTA's central oversight body is the NAFTA Free Trade Commission, chaired jointly by the U.S. Trade Representative, the Canadian Minister for International Trade, and the Mexican Secretary of Commerce and Industrial Development. The NAFTA Commission, modeled after the U.S.-Canada Trade Commission under the CFTA, is responsible for overseeing implementation and elaboration of the NAFTA and for dispute settlement. The Commission held its last annual meeting in April 1999 in Ottawa, Ontario. At that meeting, it directed officials to continue a trilateral operational review of the work program of the NAFTA Committees, Working Groups, and their sub committees and sub groups. As a result of the review, new direction was provided to the more than 25 different committees, sub-committees and working groups. The work program itself is guided by the NAFTA Coordinators operating

under the oversight of deputy ministers at semi-annual meetings.

14. NAFTA and Labor

The North American Agreement on Labor Cooperation (NAALC), a supplemental agreement to the NAFTA, promotes effective enforcement of domestic labor laws and fosters transparency in their administration. The NAALC also has generated an unprecedented trilateral work program in the areas of industrial relations (i.e., the right to organize and bargain collectively), occupational safety and health, employment and training and child labor and gender initiatives.

Each NAFTA Party also has established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point for information, to examine labor concerns, and to coordinate the expansive cooperative work programs. In addition, the Agreement created a trinational NAFTA Labor Secretariat. The Secretariat was located in Dallas, Texas, but in October 1999 the Labor Ministers agreed to relocate it to the Washington, D.C. area.

During 1999, the National Administrative Offices of Mexico and the United States in collaboration with the Secretariat specifically addressed the rights of working women. Noteworthy in this regard were a conference in Mérida, Mexico, in March 1999, and seminars organized by the United States in McAllen, Texas, and by Mexico in Reynosa, Tamaulipas.

Under the NAALC and various NAO procedural guidelines, citizens of any NAFTA signatory can file a submission to request their government to review the labor practices of a NAFTA partner. Several submissions have resulted in ministerial consultations and the adoption of work programs to address the underlying concerns.

So far, twenty-two submissions have been filed under the NAALC. Fourteen were filed with the U.S. NAO, of which twelve involved allegations

against Mexico and two against Canada. Five were filed with the Mexican NAO and all involved allegations against the United States. Three submissions have been filed in Canada, one raising allegations against Mexico and two raising allegations against the United States.

Twelve of the fourteen submissions filed with the U.S. NAO involved issues of freedom of association. One submission concerned the illegal use of child labor. One case raised issues of pregnancy-based gender discrimination. Two cases also raised issues of safety and health as well as freedom of association.

Of the submissions filed thus far with the U.S. NAO, three were withdrawn by the submitters before hearings were held or the review process completed. Hearings were held on seven. Five of the U.S. submissions have gone to ministerial level consultations. The U.S. NAO declined to accept three submissions for review. One is pending. Four Mexican NAO submissions resulted in ministerial consultations. One Mexican NAO submission is under review. One Canadian NAO submission resulted in a request for ministerial consultations. Canada declined to accept two submissions in 1999 for review. Several submissions have resulted in the adoption of work programs to address the underlying concerns regarding the application of labor law.

The Secretariat for the Commission of Labor Cooperation is engaged in several important on-going research projects. Among them are a comprehensive, three-volume comparison of labor law in North America; a study of standard and advanced labor relations, work organization practices and use of technology in the garment industry; and a study focusing on the participation of women in the labor forces of the NAALC countries. The work of the Secretariat has greatly enhanced our understanding of each other's labor laws, and has resulted in better cooperation among the NAFTA countries.

The Parties have held more than 40 trilateral conferences, seminars, and technical exchanges to share information and make improvements in many critical areas, including conferences to explore ways to eliminate the exploitation of child labor; to improve safety and health in the petrochemical, construction and electronics industries; to exchange technical industrial training; and to share information on equity in the workplace. By addressing issues of labor rights, the NAALC has contributed to the growth and development of labor unions within our countries as democratic institutions that will help ensure the participation of workers and their prosperity.

15. NAFTA and the Environment

A further supplemental accord, the North American Agreement on Environmental Cooperation (NAAEC), ensures that trade liberalization and efforts to protect the environment are mutually supportive. The NAAEC created the North American Commission on Environmental Cooperation (CEC) comprising the designated environmental officials from the United States, Canada, and Mexico. The Commission's work is supported by an Environmental Secretariat located in Montreal.

In the first four years of operation, the CEC has begun work on an impressive list of environmental projects focusing on five major themes: environmental conservation; protecting human health; cooperation and law enforcement; environment, trade, and economy; and information and public outreach. Other recent developments include the establishment of the North American Fund for Environmental Cooperation (NAFEC), a fund for community-based grants to help meet the goals of the NAAEC. Since its inception, the NAFEC has funded 125 community-based projects in Canada, Mexico, and the United States, bringing the total funding provided through NAFEC to almost five million dollars.

In November 1993, Mexico and the United States agreed on arrangements to help border communities with environmental infrastructure projects, in furtherance of the goals of the NAFTA and the NAAEC. The governments established two institutions, the Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB), which now are working with close to 100 communities along the Mexico-U.S. border.

Approximately \$15.5 million has been allocated by BECC's Technical Assistance Program to aid in the development of 107 environmental infrastructure projects related to water, sewage, and municipal waste in more than 78 communities on both sides of the U.S.-Mexico border. Fifty-eight communities are currently participating in the NADB's Institutional Development Cooperation Program, representing 75 institutional strengthening projects. The Bank also is working with communities to develop 23 additional projects.

To date, the BECC has certified 31 water, wastewater, and municipal solid waste infrastructure projects. These projects will represent a total estimated investment of \$682 million, benefitting over six million border residents. Nineteen certified projects are located in the United States; twelve are located in Mexico.

The NADB is working with the sponsors of 24 certified projects that are interested in receiving financial assistance from the Bank. NADB participation in these projects is estimated at \$192.5 million, 56 percent in Mexico and 44 percent in the United States. As of September 1999, the NADB had authorized \$154.5 million in loans and/or grant resources for 20 infrastructure projects. These projects will represent a total investment of \$551.8 million.

16. Dispute Resolution for Labor and Environment

The Labor and Environment agreements also provide for dispute settlement in the event of a persistent pattern of failure to effectively enforce national laws. Where consultations fail to resolve such disputes, a neutral panel of independent experts will be established by a two-thirds vote of the parties. Ultimately, if a panel finds that there was such a persistent pattern, and if a party fails to remedy the matter, then there could be fines or trade sanctions in certain instances. Canada has agreed, in lieu of trade sanctions, to make assessments and other panel-ordered remedies enforceable in Canadian courts.

C. Asia Pacific Economic Cooperation

Overview

Under the leadership of President Clinton, the Asia Pacific Economic Cooperation forum, which was founded in 1989, was transformed from a largely consultative body to a dynamic force for market opening and trade expansion in the Asia Pacific region, and in the world. Recognizing the growing importance of the Asia Pacific region to the United States economy – it accounts for more than half of the U.S. exports to the world, and has steadily increased in importance in recent years – President Clinton invited Leaders from 18 Asia Pacific economies to Blake Island, Washington in 1993, the first ever regional meeting of Leaders.

The growth in U.S. goods exports to APEC clearly demonstrates the benefits of market opening and trade expansion. Since 1992, U.S. exports to APEC increased nearly 65 percent, including a 5.0 percent increase in 1999.

It was at Blake Island that APEC Leaders first expressed their collective desire to move toward an “Asia Pacific community” of economies. This presaged a series of accomplishments which

established APEC as the preeminent forum for trade liberalization and open markets in the Asia Pacific region. In particular:

- ▶ In 1994, APEC Leaders announced their commitment to the “Bogor vision” to establish free and open trade and investment in the region by 2010 for industrialized economies and 2020 for developing economies;
- ▶ In 1995, the Osaka Action Agenda, which developed a specific road map for opening markets in the region in 14 substantive areas, was agreed upon;
- ▶ In 1996, APEC economies submitted their first “Individual Action Plans” indicating how they intended to move toward fulfillment of the Bogor goals. Moreover, APEC Leaders called for conclusion of the Information Technology Agreement (ITA) in the WTO, which acted as a decisive catalyst toward successful completion of this agreement – one of the world’s largest trade agreements ever in terms of trade coverage – in 1997; and
- ▶ In 1997 and 1998, APEC Leaders, seeking to further advance APEC’s leadership role in the multilateral trading system, called for the opening of 15 key sectors on a global basis, developed the details for market opening in each sector, and affirmed their commitment to working to this end in the WTO.
- ▶ In 1999, APEC Leaders called for a new, three-year round of WTO negotiations, to include among other things industrial tariffs, the abolition of agricultural export subsidies, as well as the eight “accelerated tariff liberalization” sectors that they had identified in 1997-98.

1999 Activities

The APEC forum continued to exhibit leadership in 1999 in advancing the goals of regional economic cooperation, market opening, and trade liberalization and facilitation. Meetings of APEC Trade Ministers and Leaders in New Zealand reaffirmed the regions commitment to trade expansion and market opening, helping ensure that there was no slide toward protectionism in the wake of the region's financial crisis. Indeed, as the crisis abated in 1999, regional trade once again began to expand. Moreover, the clear commitment to open markets exhibited by APEC economies no doubt helped facilitate the region's recovery and the restoration of investor confidence in the economies hardest hit by the crisis.

APEC demonstrated its continuing commitment to the vision of regional and global market opening and trade expansion in several concrete ways. In particular, it:

- ▶ proved its ability once again to play a leading role in the multilateral trading system;
- ▶ took specific steps to advance its own work program of regional trade and investment liberalization and facilitation; and
- ▶ demonstrated its flexibility as an organization by establishing a work program to address a number of critical issues arising from the financial crisis, in particular steps to "strengthen the functioning of markets."

1. Leadership in the Multilateral Trading System

APEC Trade Ministers indicated clearly their desire for the region to continue to play a leading, catalytic role in fostering the opening of markets worldwide. At the June 1999 Trade Ministers'

meeting, Ministers agreed to support the launch of WTO negotiations with an agenda focused on market access issues. They built on this result at the September Ministerial meeting when they: called for the initiation of a three-year trade round in the WTO; endorsed the abolition of agricultural export subsidies as part of the round's agenda; and endorsed early results in the areas of transparency in government procurement, extending the moratorium on customs duties on electronic transmissions, and an agreement on accelerated tariff liberalization in eight key sectors that they had selected in 1997 and developed in 1998.

These recommendations have not yet been acted upon in the WTO in view of the inconclusive outcome of the Third WTO Ministerial. Nonetheless, the commitment of APEC Trade Ministers and Leaders, accounting for over half of world trade, should act as a positive force in reviving the WTO agenda in the coming year.

2. Advancement of APEC's Work on Trade and Investment Liberalization and Facilitation

APEC continues to take concrete steps to ensure that its member economies make steady progress toward achieving the "Bogor goals" of free and open trade and investment in the region. APEC work on trade and investment liberalization and facilitation is overseen by the *Committee on Trade and Investment* (CTI) and its sub-fora. The CTI and sub-fora have well-developed, specific work programs in the fifteen substantive issue areas, as first defined in the 1995 Osaka Action Agenda. These areas are: tariffs, non-tariff measures, services, investment, government procurement, standards and conformance, customs, competition policy, deregulation, intellectual property rights, dispute mediation, mobility of business people, rules of origin, and implementation of the Uruguay Round.

While the CTI has overall responsibility for developing and overseeing work in these 15 areas, much of the work program at a technical level is

conducted by CTI sub-fora. Thus, in addition to the three meetings of the CTI held in 1999, the following CTI sub-fora met:

- ▶ Market Access Group (tariffs and non-tariff measures) – two meetings;
- ▶ Group on Services – three meetings;
- ▶ Investment Experts Group – three meetings;
- ▶ Sub-Committee on Standards and Conformance – three meetings;
- ▶ Sub-Committee on Customs Procedures – two meetings;
- ▶ Intellectual Property Rights Experts Group – two meetings;
- ▶ Competition Policy/Deregulation Workshop – one meeting;
- ▶ Government Procurement Experts Group – two meetings;
- ▶ Informal Experts Group on the Mobility of Business People – three meetings;
- ▶ Informal Meeting on Uruguay Round Implementation and Rules of Origin – one meeting.

Among other things, the CTI and its sub-fora are responsible for implementing APEC's "Collective Action Plans" in each of the fifteen areas. The objective of the Collective Action Plans is to develop cooperative means and programs by which APEC members progress toward the APEC goals of regional open and free trade and investment. In 1999, a number of concrete results were achieved in the implementation of these Collective Action Plans. A complete description of steps undertaken in advancing Collective Action Plans can be found in the *Committee on Trade and Investment's 1999 Annual Report to*

Ministers, which is at the APEC Secretariat's website (<http://www.apecsec.org.sg>).

Highlights include the following:

- ▶ Development of an APEC web page that contains hyper links to information in each member economy on its non-tariff measures;
- ▶ Development of an APEC Directory of Professional Services (Accounting, Engineering, and Architectural);
- ▶ Agreement to develop a broader policy framework on services trade in APEC and better coordination of services work in other APEC fora;
- ▶ A work program to implement a "menu of options" on Investment Liberalization and Business Facilitation";
- ▶ Development of a Mutual Recognition Arrangement on Conformity Assessment of Electrical and Electronic Equipment;
- ▶ Agreement to develop a work program on trade facilitation in information technology products through steps to harmonize standards conformity assessment.
- ▶ Further progress in aligning national standards with international standards in a number of APEC economies;
- ▶ An APEC multiyear technical assistance project to implement the WTO Customs Valuation Agreement was completed;
- ▶ Completion of a collective action to ensure the public availability of all customs laws and regulations and administrative guidelines by APEC members;

- ▶ Agreement on guidelines for simplification and standardization of Intellectual Property Rights administrative systems;
- ▶ Government Procurement principles pertaining to accountability, due process, and non-discrimination were agreed upon, along with illustrative practices indicating how these principles could be implemented.
- ▶ Agreement on Principles to Enhance Competition and Regulatory Reform and a work program to implement them;
- ▶ A collective commitment to expand the availability of Multiple Entry Visas to APEC business travelers.

Work on the “EVSL” Sectors: The CTI also oversaw work to address non-tariff measures, facilitate trade, and conduct economic and technical cooperation in each of the sectors selected by APEC Leaders for “early voluntary liberalization.” These programs included: a study on the nature and extent of fisheries subsidies in APEC economies, and a study to reduce impediments to early voluntary liberalization in the fisheries sector; a study of non-tariff measures in the forest products sector; a program to facilitate APEC implementation of ISO toy safety standards; and, a seminar for government regulators to facilitate harmonization of standards of medical equipment regulation. Further work on the non-tariff, facilitation, and economic and technical cooperation elements of “EVSL” sectors is expected in 2000.

Finally, APEC Officials and Ministers took a number of other steps in 1999 aimed at further improving the APEC process itself and implementing other trade liberalization and facilitation measures that have already been agreed upon. These steps included:

- ▶ Additional commitments to open markets reported in APEC members’ “Individual Action Plans” (IAP), and “peer reviews” of the action plans of several APEC members: Australia, Brunei Darussalam, Japan, Philippines, and the United States. Peer reviews of IAPs, which began in 1997, have steadily become more rigorous, and now normally include the submission of written questions from other APEC members.
- ▶ In order to further improve the IAP process, APEC members conducted self reviews of their plans, and an independent outside review also was conducted by the Pacific Economic Cooperation Council. As a result of these reviews, Ministers directed that a number of specific measures be taken in 2000 to improve the transparency of IAPs, and improved guidelines for indicating how they plan to achieve the Bogor goals.
- ▶ APEC Ministers also directed that the Collective Action Plans be deepened and broadened in 2000.
- ▶ Agreement by APEC Ministers to place greater emphasis on concrete trade facilitation measures in the coming year;
- ▶ The first APEC Automotive Dialogue was held in July 1999 in Indonesia. The dialogue represents the first region-wide forum bringing together both high level public officials and the private sector in this key sector. The dialogue aims to better integrate and make more efficient the automotive industry in the Asia Pacific region. It will continue to meet in 2000.
- ▶ Ministers directed that a number of steps be taken to develop and enhance electronic commerce in the region, noting the key role of the private sector, and the

importance of the public sector in ensuring a favorable environment in which e-commerce can flourish.

- ▶ APEC Members endorsed a report on establishing an APEC Food System, with a specific work agenda in three areas: rural infrastructure development, dissemination of technological advances in food products and processing, and promotion of trade in food products. The APEC Food System report, among other things, also called for the abolition of agricultural subsidies, and greater specificity in how APEC members would meet the goals of free and open trade in the food sector in their IAPs.
- ▶ APEC Ministers affirmed the importance of transparent and science-based approaches to the introduction and use of biotechnology products, and called for a report on APEC's work in the biotechnology area, including recommendations for their consideration at the June 2000 meeting of Trade Ministers.

3. Strengthening the Functioning of Markets

In responding to the Asian financial crisis, APEC Ministers and Leaders have recognized the need for policies to develop markets that are more efficient, flexible and competitive. To that end, they agreed upon a "road map" that sets out to strengthen the functioning of markets in the region. The elements of this road map include:

- ▶ Endorsement of "APEC *Principles to Enhance Competition and Regulatory Reform*" and establishes a work program to implement the principles;
- ▶ Continued work in the area of economic and corporate governance; and

- ▶ Work to strengthen market infrastructure, in particular the area of legal infrastructure, and the development of new businesses.

